

Amendments to the Specification

As per the tel. int. of 6/23/03, Page #8

Please replace the paragraph beginning at page ⁴²37, line 2 with the following:

Applicant(s) have made a deposit of at least 2500 seeds of hybrid maize plant 39K40 and inbred parent plants GE535658 and GE516223 with the American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, VA 20110-2209 USA, ATCC Deposit Nos. _____, _____ and _____, respectively. The seeds deposited with the ATCC on _____, _____ and _____, respectively were taken from the deposit maintained by Pioneer Hi-Bred International, Inc., 800 Capital Square, 400 Locust Street, Des Moines, Iowa 50309-2340, since prior to the filing date of this application. Access to this deposit will be available during the pendency of the application to the Commissioner of Patents and Trademarks and persons determined by the Commissioner to be entitled thereto upon request. Upon allowance of any claims in the application, the Applicant(s) will make available to the public, pursuant to 37 C.F.R. § 1.808, sample(s) of the deposit of at least 2500 seeds of hybrid maize plant 39K40 and inbred parent plants GE535658 and GE516223 with the American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, Virginia 20110-2209. This deposit of seed of hybrid maize plant 39K40 and inbred parent plants GE535658 and GE516223 will be maintained in the ATCC Depository, which is a public depository, for a period of 30 years, or 5 years after the most recent request, or for the enforceable life of the patent, whichever is longer, and will be replaced if it becomes nonviable during that period. Additionally, Applicant(s) have satisfied all the requirements of 37 C.F.R. §§ 1.801 - 1.809, including providing an indication of the viability of the sample upon deposit. Applicant(s) have no authority to waive any restrictions imposed by law on the transfer of biological material or its transportation in commerce. Applicant(s) do not waive any infringement of their rights granted under this patent or under the Plant Variety Protection Act (7 USC 2321 et seq.).

BS

AE